

APPENDIX TO UTSA HOP 10.02, MISCONDUCT IN RESEARCH OR OTHER SCHOLARLY ACTIVITIES

COMPILATION OF KEY PLAYERS, ACTIONS AND DETERMINATIONS OCCURRING DURING EACH STAGE OR PHASE ASSOCIATED WITH A MISCONDUCT PROCEEDING

Stage/Phase of Proceedings	Individual/Group Responsible for Action or Decision	Key Actions/ Decisions/Standards in each Stage/Phase
<p>Note: During the course of a given Misconduct Proceeding, actions or developments (for example, the Respondent admits to committing misconduct) might occur that can change the course of a typical Misconduct Proceeding. Information about some of such actions or developments is found at the end of this table in a shaded section labeled “Handling Interim Developments.”</p>		
<p><i>Reporting of Misconduct</i> [Allegation]</p>	<p>All UTSA Covered Persons</p>	<p>Action: Present formal (written) or informal (oral) Allegation of Misconduct to RIO.</p>
	<p>Research Integrity Officer (RIO)</p>	<p>Decisive Action: Review the facts alleged in the Allegation to determine whether an initial assessment is warranted. Decision: Should an informal Allegation be (i) resolved or (ii) reduced to writing and handled as a formal Allegation?</p>
<p><i>Initial Assessment</i> [Review only the facts that have been alleged to determine if process continues]</p>	<p>RIO</p>	<p>Decisive Action: Review the facts alleged in the Allegation to determine whether to progress to the next phase (the Inquiry). Decision: Based on the alleged facts, is an Inquiry (i) warranted or (ii) not warranted (and so the Misconduct Proceeding should be closed)? Standard: Inquiry is warranted if the facts alleged provide a reasonable basis for concluding (i) that the Allegation is sufficiently serious, credible and specific so that potential Evidence can be identified, <i>and</i> (ii) that the Allegation relates to individuals covered by UTSA HOP policy 10.02, to activities that meet the definition of Misconduct, and to activities that occurred within the time-frame covered by HOP policy 10.02 (see “Scope” section of this policy).</p>

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<p><i>Inquiry</i> [Gather/review necessary relevant Evidence & information to determine if process continues]</p>	<p>RIO</p> <p>RIO</p> <p>RIO [Respondent(s)]</p>	<p>Preparations/Laying the Foundation for the Inquiry:</p> <ul style="list-style-type: none"> ➤ Take reasonable, prompt actions to identify, secure, and inventory Records and other Evidence relevant to alleged Misconduct or to the Misconduct Proceedings. ➤ After (or while) Evidence is being secured but before Inquiry begins, provide Respondent(s) notification in writing of the Allegation, of UTSA HOP policy 10.02, and of the Inquiry. Simultaneously, provide Complainant notice that an Inquiry will soon be starting. ➤ In consultation with other institutional officials as appropriate, appoint members to the Inquiry Committee, giving Respondent(s) five (5) business days to raise objections to the members based on alleged Conflict of Interest(s).
	<p>Initiation of the Inquiry: The Inquiry begins on the date that the RIO convenes the Inquiry Committee and explains the charges found in the Allegation to the committee.</p>	
	<p>Inquiry Committee [Interviewee(s)]</p> <p>Inquiry Committee</p>	<p>Action:</p> <ul style="list-style-type: none"> ➤ At the discretion of the Committee, interviews Complainant, Respondent(s) and other witnesses and gathers other relevant information and Evidence as the committee deems necessary. Allows each interviewee five (5) business days to comment on his/her interview recording or transcript as necessary to correct the testimony (which recording or transcript and comments, if any, will be retained in the records of the Misconduct Proceeding). ➤ Engages in fact-finding based on information, Evidence and any interview testimony, and then issues to RIO a Preliminary Inquiry Report either concluding that a full Investigation is either warranted or not. (Note: See PHS Regulation for mandatory components of such Report)

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Inquiry [continued]	RIO	Action: Provides Respondent(s) a copy of the Preliminary (draft) Inquiry Report.
	Respondent(s)	Action: Has ten (10) days to provide the RIO & Inquiry Committee with written comments to the Preliminary (draft) Inquiry Report, which comments will be attached to the (final) Inquiry Report.
	Inquiry Committee	Action: Reviews any written response from Respondent(s) and issues to RIO an Inquiry Report that either recommends an Investigation or the closure of the Misconduct Proceeding.
	Deciding Official <i>{Note: Inquiry Committee makes a recommendation, but the Deciding Official makes the final decision}</i>	<p>Decisive Action: Reviews the Inquiry Report and written response from Respondent(s) and issues a written determination as to whether the Misconduct Proceeding will progress to the next phase (the Investigation). Notifies Respondent and Complainant of the final results of the Inquiry and provides Respondent a copy of the Inquiry Report.</p> <p>Decision: Based on preliminary information gathered and preliminary fact-finding by the Inquiry Committee, is an investigation (i) warranted or (ii) not warranted (and so the Misconduct Proceeding should be closed)?</p> <p>Standard: An investigation is warranted if the Inquiry Report and the written response from Respondent(s) (i) indicate that the Allegation may have substance <i>and</i> (ii) provide a reasonable basis for concluding that the Allegation meets the requirements found in the “Scope” section of this policy.</p>
<u>Inquiry Completion Deadline:</u> Unless an extension is granted by the RIO, the Inquiry, including the final report and decision, should be completed within sixty (60) days of its initiation.		

Stage/Phase of Proceedings	Individual/Group Responsible for Action or Decision	Key Actions/ Decisions/Standards in each Stage/Phase
Investigation [Thorough review of facts relevant to Allegations to make final decisions concerning them]	RIO	Preparations/Laying the Foundation for the Investigation: <ul style="list-style-type: none"> ➤ Take reasonable, prompt actions to identify, secure, and inventory additional Records and other Evidence relevant to the Investigation. ➤ Provide appropriate notice of the results of the Inquiry and of the impending Investigation to those at UTSA who have a need to know and, if required, to the appropriate external entities (Sponsor, ORI, etc.). ➤ After (or while) additional Evidence (if any) is being secured but before the Investigation begins, provide Respondent(s) notification in writing of the Allegations to be investigated, including, where appropriate, new Allegations not included in the Inquiry. ➤ In consultation with other institutional officials as appropriate, appoint competent members to the Investigation Committee, giving Respondent(s) five (5) business days to raise objections to the members based on alleged Conflict of Interest(s). <i>[Note: Inquiry Committee members may also serve on the Investigation Committee.]</i>
	RIO	
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	Initiation of the Investigation: Within 30 days of the date that the Deciding Official determined that an Investigation was warranted, the RIO begins the Investigation by convening the Investigation Committee to explain Investigation processes and the Allegations/charges to the Investigation Committee.	
	Investigation Committee Investigation Committee [Interviewee(s)]	Action: <ul style="list-style-type: none"> ➤ Thoroughly examines all Records and Evidence. ➤ Interviews Complainant, Respondent(s), and, other available persons identified as having information relevant to the Investigation and allows each interviewee five (5) business days to comment on his/her interview recording or transcript as necessary to correct the testimony (which recording or transcript and comments, if any, will be retained in the records of the Misconduct Proceeding).

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<i>Investigation</i> [continued]	Investigation Committee	Action (continued): <ul style="list-style-type: none"> ➤ Diligently and completely pursues any significant issues and leads discovered during the Investigation that are relevant to the Investigation and promptly reports to the RIO any such issues or leads related to Misconduct in research or scholarly activities that are <i>not</i> directly relevant to the Investigation. ➤ Reviews documentary Evidence and interviews and issues to RIO a Draft Investigation Report that determines, for each Allegation investigated, whether or not the Respondent committed Misconduct.
	Investigation Committee	
	RIO	Action: Provides Respondent(s) with a copy of the Draft Investigation Report for comment and with supervised access to the Evidence that formed the basis for this Report.
	Respondent(s)	Action: Has thirty (30) days to provide the RIO & Inquiry Committee with written comments to the Draft Investigation Report, which comments will be attached to the final Investigation Report.
	Investigation Committee	Action: Reviews any written responses from Respondent(s) and, after any necessary consultation with the RIO, issues to the RIO a Final Investigation Report that, for each identified Allegation, either finds or does not find that Misconduct occurred and for each finding of Misconduct, recommends appropriate institutional actions. (Note: See PHS Regulation for mandatory components of such Report)
RIO	Action: Provides Deciding Official the final Investigation Report, including the comments from Respondent(s).	

Stage/Phase of Proceedings	Individual/Group Responsible for Action or Decision	Key Actions/ Decisions/Standards in each Stage/Phase
Investigation [continued]	Deciding Official <i>{Note: Investigation Committee makes a recommendation, but the Deciding Official makes the final decision}</i>	<p>Decisive Action: Reviews the final Investigation Report and determines (i) whether to accept the Report or request that the Investigation Committee perform additional fact-finding or analysis, (ii) whether to accept or to overturn the findings relating to each Allegation of Misconduct, and (iii) whether the recommended actions relating to findings of Misconduct are appropriate, and if not, determines the actions that are appropriate.</p> <p>Decision: For each Allegation of Misconduct, determine whether Misconduct occurred, who committed the Misconduct, and, if Misconduct is found, what appropriate disciplinary actions UTSA will undertake against the Respondent and what other remedial actions UTSA will take.</p> <p>Standard: A determination that the Respondent committed Misconduct is warranted if a preponderance of the Evidence shows (i) that Misconduct occurred, (ii) that the Misconduct is a significant departure from accepted practices in the relevant research or scholarly community and (iii) the Misconduct was committed intentionally, knowingly or recklessly. Even if the Evidence does show (i)-(iii), above, a determination that the Respondent committed Misconduct will not be warranted if Respondent can show, by a preponderance of the Evidence, that the Misconduct resulted from an honest error or a difference of opinion.</p>
	RIO	<p>Action: Notifies Respondent, Complainant, required external entities (sponsor, ORI, etc.) and those at UTSA with a need to know of the results of the Investigation. Retains appropriate records of the Misconduct Proceeding as required by the PHS Regulation.</p>
	<p>Investigation Completion Deadline: Unless an extension is granted by the RIO or, where applicable, the ORI, the Investigation, including the final report and decision, should be completed within one hundred twenty (120) days of its initiation.</p>	

<p>Handling Interim Developments</p> <p>[Disruptive actions that can occur anytime during the Misconduct Proceeding]</p>	RIO	<p><u>NEW RESPONDENT OR NEW MISCONDUCT IS IDENTIFIED.</u></p> <ul style="list-style-type: none"> ➤ Additional Respondents or Allegations may be added at any time during the Misconduct Proceeding. However, each new Respondent must be given notice of the Allegations against him/her within a reasonable amount of time before the Allegations are pursued. Similarly, a Respondent must be given notice of new Allegations against him/her within a reasonable amount of time before the new Allegations are pursued.
	Inquiry/Investigation Committees & Deciding Official	<p><u>RECORDS RELATING TO RESEARCH MISCONDUCT CANNOT BE LOCATED OR ARE OTHERWISE UNAVAILABLE.</u></p> <ul style="list-style-type: none"> ➤ Where Research Misconduct is alleged, the destruction, absence of, or Respondent’s failure to provide Records adequately documenting the questioned research is, in itself, Evidence of Misconduct where the preponderance of the Evidence shows (a) that the Respondent intentionally, knowingly or recklessly (i) had such Records and destroyed them, (ii) had the opportunity to maintain such Records but did not do so, or (iii) maintained such Records and failed to produce them in a timely manner, and (b) that the Respondent’s conduct constitutes a significant departure from accepted practices in the relevant research community.
	RIO and Inquiry/Investigation Committees	<p><u>RESPONDENT RESIGNS OR IS TERMINATED FROM HIS/ HER POSTION.</u></p> <ul style="list-style-type: none"> ➤ The Misconduct Proceeding will continue without delay even if the Respondent is no longer employed by or affiliated with UTSA. If Respondent refuses to participate in the proceeding, the proceeding will move forward with the available Evidence and witnesses; however, the reports will note the Respondent’s failure to cooperate and its effect on the Evidence.
	RIO	<p><u>RESPONDENT ADMITS TO COMMITTING MISCONDUCT.</u></p> <ul style="list-style-type: none"> ➤ The RIO should be notified if the Respondent at any time admits to committing the Misconduct. The RIO will consult with legal counsel and with the appropriate external entity (ORI, other federal agency, or Sponsor), if required, to determine if the admission is sufficient to foreclose further investigation or to otherwise supersede the Misconduct Proceeding.